

SOUTHERN ENVIRONMENTAL LAW CENTER

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Charlottesville, VA
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July 7, 2009

U.S. Environmental Protection Agency
Region 4 Freedom of Information
SNAFC Bldg, 61 Forsyth St., S.W.,
9th Floor
Atlanta, GA 30303-8960

VIA U.S. Mail and Facsimile: (404) 562-8054

CONTROL NO. <i>00582-09</i>	DATE <i>8/7/09</i>
REFERENCE DUE: <i>Other</i>	
APPROVED	SECD
<i>MA</i>	EAD
WRMD	OTHER

Special Instructions: *Full Requested*

Re: Freedom of Information Act Request - Garden City Berths Deepening

Dear Ma'am or Sir:

Under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, the Southern Environmental Law Center ("SELC") requests all documents in the possession or control of the U.S. Environmental Protection Agency (the "EPA") that relate to the Georgia Ports Authority's application for the deepening of four berths at the Garden City Terminal area in Chatham County, Georgia, permit number 200801520 (the "permit"), including but not limited to the following:

- Any analysis, assessment, report, and/or documents related to the project's environmental effects;
- Any analysis, assessment, report, and/or documents related to the EPA's comment letter on the permit submitted to the Army Corps of Engineers on January 13, 2009;
- All correspondence related to the permit between EPA, the Corps, Georgia Department of Natural Resources, Coastal Resources Division, and any other federal or state agency, company, or person;
- Any photographic analyses, including any photographs, maps, or drawings, that may have been prepared in relation to the permit; and
- All other documents related to the permit.

For the purposes of this request, the term "documents" includes all written, printed, recorded or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, maps, photographs, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages and mail in the possession or control of the EPA.

FOIA directs a responding agency to make a "determination" on any request within twenty (20) working days of receipt. See 5 U.S.C. § 552(a)(6)(A)(i). FOIA also requires the release of all reasonably segregable portions of a document that are themselves not exempt. 5 U.S.C. § 552(b). Should our requests be denied, we request that you inform us of the grounds for denial and the specific administrative appeal rights which are available. See 5 U.S.C. § 552(a)(6)(A)(i).

SELC is requesting photocopies without charge, or at a reduced charge, because reduction or waiver of fees would be in the public interest. A disclosure is in the public interest if (1) it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) it is not primarily in the commercial interest of the requester. The public interest standard of the fee waiver provision of the FOIA should be "liberally construed" in favor of waivers. McClellan Ecological Seepage Situation v. Carlucci, 835 F.2d 1282, 1284 (9th Cir. 1987); Pederson v. Resolution Trust Corp., 847 F. Supp. 851, 855 (D.Colo.1994); Etlinger v. FBI, 596 F. Supp. 867, 872 (D. Mass. 1984). The goal of the statute is to avoid the "roadblocks and technicalities which have been used by various Federal agencies to deny waivers...." Pederson, 847 F. Supp. at 855.

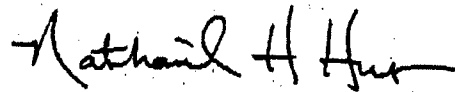
SELC is a 501(c)(3) non-profit organization with over 20 years of experience disseminating public information regarding Corps regulatory and operations issues. See 5 U.S.C. § 552 (a)(4)(A)(iii). SELC maintains a website that includes both general and topic-specific information regarding the matters with which SELC is involved. For example, SELC frequently publishes reports and issues press releases regarding its projects (See e.g., "Where are We Growing: Land Use and Transportation in the Greater Richmond Area," http://www.southernenvironment.org/cases/vdot_reform/richmond_report.pdf). Lawyers at SELC are interviewed by the media to explain their work and its significance. (See e.g., "Judge Halts Landing Field," Raleigh News and Observer, February 19, 2005, <http://www.newsobserver.com/news/growth/story/2140513p-8522056c.html>). SELC's website contains documents generated by SELC for the specific purpose of educating the public on particular issues. (See e.g., "Smart Mobility Report: Review of Tri-County Parkway Location Study," http://www.southernenvironment.org/newsroom/publications/smart_mobility_tri_county.pdf). SELC also assists the public in locating information relating to a particular topic by collecting and posting relevant information, documents, and links to other websites. (See "Mercury facts in Virginia," http://www.southernenvironment.org/cases/mercury_va/mercury_facts). All of this information is available for free to any interested member of the public. SELC staff members also educate the public by speaking at conferences and other public meetings about environmental and natural resource issues in the Southeast. A fee waiver clearly will benefit the

general public through increased notice and understanding of the operations of the government and of potential or proposed major policy incentives. SELC further certifies that disclosure of the information sought is not primarily in the commercial interest of the requester.

Should SELC's request for reduced or waived fees be denied, SELC is prepared to bear the reasonable duplication and search costs necessary to fulfill this request. However, I request you contact me before processing this request if the fee is expected to be in excess of \$25. SELC reserves its right to appeal a fee waiver or reduction denial.

If you have any questions regarding this request, please feel free to call me at 404-521-9900. Thank you for your prompt attention to this matter. We look forward to receiving the public records requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathaniel H. Hunt". The signature is fluid and cursive, with the first name being the most prominent.

Nathaniel H. Hunt
Associate Attorney



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 14, 2009

OFFICE OF
ENVIRONMENTAL INFORMATION

Mr. Nathaniel H. Hunt
Southern Environmental Law Center
The Candler Building
127 Peachtree Street, Suite 605
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RE: Request Number 04-RIN-00582-09

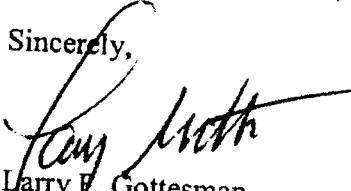
Dear Mr. Hunt:

This is in response to your request for a waiver of fees for the processing of your Freedom of Information Act (FOIA), 5 U.S.C. 552 request seeking all documents in the possession or control of the U.S. Environmental Protection Agency (EPA) that relate to the Georgia Ports Authority's application for the deepening of four berths at the Garden City Terminal area in Chatham County, Georgia, permit number 200801520 (the "permit").

We have reviewed your fee waiver justification and based on the information you provided, your request for a fee waiver is granted. However, this fee waiver does not include a waiver of fees for otherwise publically available records. EPA's Region 4, located in Atlanta, Georgia will be responding to your FOIA request.

If you have any questions concerning this please contact me at (202) 566-1667.

Sincerely,


Larry F. Gottesman
National FOIA Officer